



Planning Advisory Committee Report

Report Number:	PLAN2023-044
Meeting Date:	September 13, 2023
Title:	Township of Emily Zoning By-law Amendment for 431 Meadowview Road
Description:	To amend the Township of Emily Comprehensive Zoning By-law 1996-30 to facilitate the conditions for the creation of a residential lot, to serve as a retirement lot for a bona fide farmer
Type of Report:	Public Meeting
Author and Title:	Jonathan Derworiz, Senior Planner, MCIP, RPP; WSP Canada Inc., on behalf of Kawartha Lakes Planning Division

Recommendations:

That Report PLAN2023-044, **Township of Emily Zoning By-law Amendment for 431 Meadowview Road**, be received for information; and

That this report be referred back to staff for processing until review of the technical studies have been completed.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

The subject site, known as 431 Meadowview Road, in the Township of Emily, is currently used for agricultural purposes, containing a single detached dwelling, with an attached garage, a barn and a horse shelter. The subject site has predominantly been used for hay, soy and wheat production with some cattle grazing. Under the City of Kawartha Lakes Official Plan (Official Plan), the subject site is designated as Rural, and Sand and Gravel Resource, and identified as containing a significant woodland. Under the Township of Emily Zoning By-law the subject site is zoned as Agricultural (A1) Zone. Staff note that the portion of the lands subject to the zoning by-law amendment are designated as Sand and Gravel Resource, and contains a significant woodland as outlined in Schedule B-3 of the Official Plan.

Owner:	Lisa Hickey
Applicant:	D.M. Wills Associated Limited c/o Katherine van Beek
Legal Description:	Part Lot 10, Concession 2, geographic Township of Emily, 431 Meadowview Road, now City of Kawartha Lakes
Official Plan:	Rural, Sand and Gravel Resource City of Kawartha Lakes Official Plan
Zoning:	Agricultural (A1) Zone – Township of Emily Zoning By-law 1996-30
Area:	Approximately 39.25 hectares
Site Servicing:	Private
Existing Uses:	Agricultural, containing one single detached dwelling, attached garage, barn and horse shelter
Adjacent Uses:	North – Cottingham Road, Quarry East – Residential, Natural Heritage Features, Agricultural South – Meadowview Road, Agricultural West – Residential, Agricultural

Rationale:

Proposal:

The applicant is proposing to rezone a portion of subject site from the Agricultural (A1) Zone, to the Rural Residential (RR) Zone to facilitate the conditions for the creation of a

retirement lot for a bona fide farmer. Following an approval of the ZBA, a consent to sever application would be forthcoming to facilitate the creation of the infill residential retirement lot. The following materials were submitted in support of the application:

- 1) Planning Rationale Report (March 2023), prepared by D.M. Wills Associated Limited. The report provides an overview of the proposal and its alignment with the Provincial Policy Statement, 2020, A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2020, the City of Kawartha Lakes Official Plan 2012, and the Township of Emily Zoning By-law 1996-30. The report provides summaries of the other supporting studies submitted with the application.
- 2) Hydrogeological Study, (June 2022), prepared by D.M. Wills Associated Limited. The study was completed to ensure that there is adequate water supply and water quality available in the area, and to determine whether an on-site sewage system can be installed on site to support the creation of one residential lot.
- 3) Aggregate Impact Study (October 2021), prepared by D.M. Wills Associated Limited. The study was completed in order to determine whether the creation of a residential lot will generate any land use compatibility constraints for an existing or potential aggregate operation.
- 4) Noise and Vibration Impact Study (June 2022), prepared by Cambium Inc. The purpose of the study is to assess whether there are any potential noise and vibration concerns due to the existing aggregate pit located north of the subject lands, and if this would raise any land use compatibility concerns regarding the proposed new residential lot.
- 5) Environmental Impact Study (December 2022), prepared by D.M. Wills Associated Limited. Due to the presence of an unevaluated woodland within the area of the proposed residential lot, an environmental impact study was conducted. The environmental impact study was prepared to address potential impacts associated with the creation of a residential lot on existing environmental features.
- 6) Written Response from SAR Ontario (February 2022), Ministry of Environment Conservation and Parks (MECP). Written correspondence from the Species at Risk branch of MECP was submitted providing information regarding the potential presence of species at risk on the subject site.

- 7) Evidence of bona-fide farmer status (February 2023), prepared by D.M. Wills Associated Limited. Supplementary information was provided to certify bona fide farmer status as it relates to the requirements for severing a retirement lot.
- 8) MDS Calculations (November 2022), Ministry of Agriculture, Food and Rural Affairs.
- 9) Conceptual Site Plan Layout (February 2023), prepared by D.M. Wills Associated Limited.
- 10) Comprehensive Design Analysis (April 2022), prepared by the Biglieri Group.
- 11) Survey (October 2021), prepared by IBW Surveyors.

Provincial Policy Conformity:

Provincial Policy Statement, 2020:

The Provincial Policy Statement, 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development in Ontario. The PPS provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

The subject site is designated as Rural, and Sand and Gravel Resource in the City of Kawartha Lakes Official Plan. As such, the relevant policies under sections 1.1.4 Rural Areas in Municipalities, 1.1.5 Rural Lands in Municipalities, and 2.5 Mineral Aggregate Resources apply.

Section 1.1.4.1 of the PPS provides direction on supporting rural areas. Specifically, 1.1.4.1(a) speaks to building upon rural character and leveraging rural amenities and assets, and 1.1.4.1 (c) speaks to accommodating an appropriate range and mix of housing in rural settlement areas. Section 1.1.4.3 provides that when directing development in rural settlement areas, planning authorities shall give consideration to rural characteristics, the scale of development and provision of appropriate service levels. Staff feel that the proposed residential dwelling will contribute to a range and mix of housing options in the area, and further that the proposed residential dwelling is of an appropriate scale given the surrounding land use context. The supporting studies also indicate there is sufficient water supply in the area to support a residential dwelling.

Section 1.1.5.2 of the PPS states that on rural lands located in municipalities, permitted uses are:

- c) residential development, including lot creation that is locally appropriate;
- d) agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices, in accordance with provincial standards;

Section 1.1.5.8 of the PPS provides that new land uses, including the creation of lots, shall comply with the minimum distance separation (MDS) formulae.

In light of the fact that the proposed residential dwelling is the result of a future severance to create a retirement lot for a bona fide farmer, Staff feel that the residential development, in association with the forthcoming lot creation is locally appropriate. The supporting MDS calculations and the justification provided in the Planning Justification Report indicate that the proposed residential dwelling and new lot comply with the MDS formulae requirements.

Section 2.5.2.4 of the PPS speaks to mineral aggregate operations. Specifically stating that "mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact. Existing mineral aggregate operations shall be permitted to continue without the need for official plan amendment, rezoning or development permit under the Planning Act."

Section 2.5.2.5 of the PPS provides that "if known deposits of mineral aggregate resources and on adjacent lands, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

- a) resource use would not be feasible; or
- b) the proposed land use or development serves a greater long-term public interest;
and
- c) issues of public health, public safety and environmental impact are addressed."

Based on the findings of the aggregate impact study submitted in support of the application, the subject site contains a primary sand and gravel resource area. However, based on the size, and proximity to adjacent residential structures, it is unlikely that an applicant would pursue a license to operate an aggregate operation on the subject site, and in particular, the area of the proposed residential dwelling on the severed lot. The aggregate impact study also determined that the proposed residential development on the severed lot is not anticipated to prevent or cause any land use compatibility issues with the existing aggregate operation north of Cottingham Road. The aggregate impact study concludes that the proposed development may provide a

greater long-term benefit to the area rather than reserving this isolated area on the subject site for a future aggregate resource development. Therefore, Staff feel that the proposed development complies with the aggregate resource policies of the PPS.

Final PPS conformity will be determined once the full reviews of the technical materials are complete.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019:

In order to plan for growth and development in a manner that supports economic prosperity, protects the environment, and assists communities in achieving a high quality of life, the Ontario government prepared A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan).

The Growth Plan prescribes policies to support and guide growth within rural areas to serve the needs of rural communities. Section 2.2.9.3 provides that "Subject to the policies in Section 4, development outside of settlement areas may be permitted on rural lands for:

- a) the management or use of resources;
- b) resource based recreational uses; and
- c) other rural land uses that are not appropriate in settlement areas provided they:
 - i. are compatible with the rural landscape and surrounding local land uses;
 - ii. will be sustained by rural service levels; and
 - iii. will not adversely affect the protection of agricultural uses and other resource-based uses such as mineral aggregate operations."

Section 2.2.9.6 provides that "new multiple lots, or units for residential development will be directed to settlement areas, but may be allowed on rural lands in site-specific locations with approved zoning or designation in an official plan that permitted this type of development as of June 16, 2006."

Section 4.2.8 speaks to mineral aggregate resources. Specifically, 4.2.8.2(a) states that "no new mineral aggregate operation and no new wayside pits and quarries, or ancillary or accessory uses thereto, will be permitted in the following key natural heritage features and key hydrologic features:

- i. significant wetlands;
- ii. habitat of endangered species and threatened species; and
- iii. significant woodlands, unless the woodland is occupied by young plantation or early successional habitat."

Staff feel that the proposed development is compatible with the existing rural landscape. Staff also feel that in light of the supporting studies submitted, the proposed

residential dwelling will be sustained by rural service levels as indicated by the hydrogeology report.

Following the full review of technical studies, staff will evaluate complete Growth Plan conformity.

City of Kawartha Lakes Official Plan

The subject site is designated as Rural and Sand and Gravel Resource under the City's Official Plan. Staff note that the area subject to the Zoning By-law Amendment is designated as Sand and Gravel Resource. Said criteria and staff comments are as follows:

- 1) In alignment with Section 3.3.1 and 3.3.4, Staff is satisfied that there is sufficient groundwater capacity in the area, and that the water supply surpasses the anticipated demand;
 - A hydrogeological study was submitted in support of this application. At the time of writing this report, Development Engineering has expressed no concerns with the application.
- 2) In accordance with Section 33.3.6, Staff is satisfied that the subject site is capable of supporting an on-site sewage disposal system;
 - A hydrogeological study was submitted in support of this application. At the time of writing this report, Building and Septic Division has indicated they have no issues with the proposal as it relates to private on-site sewage disposal.
- 3) In accordance with Section 24.3.7, Staff feel that further review of the Noise Impact Study is warranted to determine any land use compatibility issues with the proposed application and the aggregate operation north of Cottingham Road;
 - A Noise and Vibration Impact Study was submitted in support of the application. This study is currently being peer reviewed by Jade Acoustics. At the time of writing this report, comments from the peer review are outstanding.
- 4) In accordance with Section 16.3.7, Staff feel that there are concerns related to the documentation submitted regarding bona fide farmer status.
 - Documentation was submitted providing proof of bona fide farmer status with the application. This material is being reviewed and discussed with the applicant.
- 5) In alignment with Section 24.3.3, an Aggregate Impact Study was completed in support of the application.
 - The Aggregate Impact Study concluded that while the location of the proposed severed parcel and residential dwelling is located in a primary sand and gravel resource area, the potential size and quality of a standalone aggregate operation

in this area makes it unlikely that an operation would be pursued in this area. The study also concluded that an aggregate operation in this area would have a significant environmental impact on the significant woodland, stating that a residential dwelling would have less of an ecological impact on the significant woodland. Staff feel that the results of the aggregate impact study support the creation of a lot and retirement dwelling for a bona fide farmer.

With regards to the Sand and Gravel Resource Designation, certain policies of the Official Plan are under appeal, specifically Section 24.3.2. However, there are other policies that are in force and effect. Section 24.3.3 states, "All lands designated should be preserved for possible future use for sand and gravel extraction where possible. In areas adjacent to known deposits of sand and gravel resources, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

- The aggregate resource use would not be feasible; or
- The proposed land use or development serves a greater long term public interest; and
- Issues of public health and safety and environmental impact are addressed."

Subsequently, Section 24.3.7 states that "within lands identified on Schedule A as Sand and Gravel Resource, a parcel may be severed by consent into a separate lot, if the retained and severed parcels satisfy the abutting Official Plan and Zoning By-law requirements, and does not generate any land use compatibility constraints for a potential aggregate operation or licensed aggregate operation."

Based on the findings in the aggregate impact study, an aggregate operation in the area subject to the proposal would not be feasible as a standalone operation. Subsequently, an aggregate operation in this area would likely result in a larger impact to the significant woodland identified on site. The aggregate impact study also found that there will be no negative impact on the existing adjacent aggregate operation north across Cottingham Road as a result of the proposal. Additionally, the aggregate impact study concluded that the ZBA does not limit the ability for future aggregate operations on the remainder of the property.

Once the full review of supporting materials is complete, staff will determine conformity with the City's Official Plan.

Township of Emily Zoning By-law 1996-30

The property is currently zoned Agricultural (A1) Zone. The applicant is proposing to rezone a portion of the property from Agricultural (A1) Zone, to the Rural Residential

Type One (RR1) Zone. The Rural Residential Type One (RR1) Zone will provide the zoning provisions to support the creation of a retirement lot for one residential dwelling.

Staff feel that the proposed amendment is appropriate to facilitate the creation of a retirement lot. The RR1 specific zone standards are met.

Other Alternatives Considered:

No other alternatives have been considered.

Alignment to Strategic Priorities:

For reference the four strategic priorities within the 2020-2023 Kawartha Lakes Strategic Plan are:

1. Healthy Environment
2. An Exceptional Quality of Life
3. A Vibrant and Growing Economy
4. Good Government

Practice of the Strategic Priority of Good Government is conducted through this application as Staff continue to evaluate applications diligently and promote continuous improvement in all steps of the land use planning process. The proposal also provides rural housing options for the City's residents.

Financial/Operation Impacts:

There are no financial or operational impacts pertaining to the proposed amendments. Costs would be incurred in the event of an appeal to the Ontario Land Tribunal of the decision made by Council.

Consultations:

Notice of this application was delivered to property owners within 500m of the subject site. In alignment with Public Notice procedure, signage detailing the amendment was placed on site.

Public Comments:

Minimal comments from members of the public were received. Comments from three (3) residents were received during the commenting period. Comments from the public were related to clarification on how to register to speak at the public meeting, and clarification on the nature of the zoning by-law amendment. One resident in particular expressed some concern over having a new neighbour whose residence he would be able to see from his backyard.

Agency Review Comments:

Supervisor, Part 8 Sewage Systems, Building Department (August 2023) – DM Wills completed an evaluation of the property for suitability for on-site sewage disposal. They have provided a conceptual lot diagram indicating adequate space for a private sewage disposal system. As such, the Building and Septic Division has no issue with proposal for rezoning as it relates to private on-site sewage disposal.

Kawartha Conservation – Kawartha Conservation has no concern with the approval of ZBA Application - D06-2023-012 to rezone portions of the land in the Township of Emily Zoning By-law from the "Agricultural (A1) Zone" to the "Rural Residential Type One (RR1) Zone" to facilitate the conditions for the creation of a retirement lot for a bona-fide farmer. A permit pursuant to Ontario Regulation 182/06 will not be required prior to any future development on the severed as well as retained properties.

Development Engineering Department (August 2023) – From an engineering perspective, we have no objection to the proposed Zoning By-law Amendment.

Enbridge Gas (August 2023) – Enbridge Gas does not object to the proposed application; however, we reserve the right to amend our development conditions.

Chippewas of Rama First Nation (August 2023) – We have no comments or concerns with this application.

Economic Development – Agriculture (August 2023) - Concerns regarding the intent for the applicant to use the Bonafide Farmer retirement lot severance provision are noted. This includes the nature of the farming operation and the farming status of the landowner. Staff are evaluating the application for conformity with applicable policies and provisions.

Development Services – Planning Division Comments:

Staff feel that the proposed rezoning of 431 Meadowview Road has merit from a land use and policy perspective while noting that technical reviews are underway. Conformity with the PPS, Growth Plan and Official Plan will continue to be evaluated while comments from reviewing agencies are received.

Conclusion:

Staff respectfully recommends that the application to rezone 431 Meadowview Road be referred back to staff until technical reviews have been completed and comments from the public have been addressed.

Attachments:

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Jonathan Derworiz, Senior Planner, (519) 904-1761.

Appendix 'A' – Location Plan



Report
PLAN2023-044_Appe

Appendix 'B' – Aerial Photo



Report
PLAN2023-044_Appe

Appendix 'C' - Site Plan



Report
PLAN2023-044_Appe

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services

Department File: D06-2023-012